

PROCUREMENT ADVISORY No. 109

Providing Accelerated Payment to Small Business Subcontractors

1. SUMMARY

This advisory provides a contract clause to require prime contractors to pay small business subcontractors on an accelerated timetable to the maximum extent practicable.

2. BACKGROUND

This deviation implements the temporary one-year policy provided by the Office of Management and Budget (OMB) Policy Memorandum M-12-16, *Providing Prompt Payment to Small Business Subcontractors*, which is designed to accelerate payment from federal prime contractors to their small business subcontractors.

3. REFERENCES

- a. OMB Policy Memorandum M-12-16, *Providing Prompt Payment to Small Business Subcontractors*.
- b. Civilian Agency Acquisition Council (CAAC) Letter 2012-03, *Class Deviation from the Federal Acquisition Regulation (FAR) to implement Office of Management and Budget (OMB) Policy Memorandum M-12-16, Providing Prompt Payment to Small Business Subcontractors*.
- c. FAR 52.232-99, clause entitled *Providing Accelerated Payment to Small Business Subcontractors (DEVIATION)*.

4. ACTIONS

Contracting officers shall insert the clause at 52.232-99 (DEVIATION)(AUG 2012), included below, in all new solicitations issued and resultant contracts awarded after the date this deviation is signed and, to the extent feasible, modify existing solicitations to insert this clause. Contracting officers may amend existing contracts to insert this clause in accordance with FAR 1.108(d).

This deviation remains in effect until it is incorporated into the Federal Acquisition Regulation (FAR) or is otherwise rescinded.

CONTRACT CLAUSE:

52.232-99, Providing Accelerated Payment to Small Business Subcontractors (DEVIATION)

The contracting officer shall insert the following clause in all solicitations and resultant contracts.

PROVIDING ACCELERATED PAYMENT TO SMALL BUSINESS SUBCONTRACTORS
(DEVIATION) (AUG 2012)

This clause implements the temporary policy provided by OMB Policy Memorandum M-12-16, Providing Prompt Payment to Small Business Subcontractors, dated July 11, 2012.

- (a) Upon receipt of accelerated payments from the Government, the contractor is required to make accelerated payments to small business subcontractors to the maximum extent practicable after receipt of a proper invoice and all proper documentation from the small business subcontractor.
- (b) Include the substance of this clause, including this paragraph (b), in all subcontracts with small business concerns.
- (c) The acceleration of payments under this clause does not provide any new rights under the Prompt Payment Act.

Advisories are posted on the USDA World Wide Web site at the following URL:
<http://www.dm.usda.gov/procurement/policy/advisories.html> . If you have questions or comments regarding this advisory, please contact Donna Calacone by telephone at (202) 205-4036 or email at Donna.Calacone@dm.usda.gov or send an email message to procurement.policy@dm.usda.gov.
EXPIRATION DATE: Effective upon issue date until canceled.